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TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1884.

No. 1260.

R. B. CHAFFIN, PLAINTIFF IN ERROR,

vs.

WILLIAM TAYLOR.

IN ERROR TO THE SUPREME COURT OF APPEALS OF THE STATE OF VIRGINIA.

FILED JANUARY 22, 1885.

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JUDD & DETWEILER, PRINTERS, WASHINGTON.

1 VIRGINIA:

In the Supreme Court of Appeals, held at the State Court-House in the City of Richmond, on Tuesday, the 25th day of November, 1884.

The petition of R. B. Chaffin for a writ of error to a judgment rendered by the circuit court of the county of Henrico on the 11th day of October, 1884, in a suit which the petitioner was plaintiff and William Taylor was defendant, having been maturely considered and the transcript of the record of the judgment aforesaid seen and inspected, the court, being of opinion that said judgment is plainly right, doth deny the said writ.

The petition and record aforesaid are in words and figures following, to wit:

Petition.

To the judges of the supreme court of appeals for the State of Virginia:

Your petitioner, R. B. Chaffin, would respectfully represent
2 that he is aggrieved by a judgment pronounced against him on the 11th day of October, 1884, by the circuit court of Henrico county, in a suit wherein your petitioner was plaintiff and William Taylor was defendant.

A transcript of the record of said judgment is presented herewith, from which the following will — to be the facts in the case:

Your petitioner owed the State of Virginia taxes for the year 1883 on property in Henrico Co., and he tendered to the defendant, who is the treasurer of said county, in payment thereof a sum made up of a certain sum of current money and the balance coupons issued by the State of Virginia, which bore on their face the contract of said State that they should be received in payment of all taxes due to her. The treasurer refused to receive it, and levied on and sold your petitioner's horse. Your petitioner sued him for his trespass in making this seizure and sale.

The defendant pleaded the act of March 13th, 1884, (Acts 1883–4, page 527,) and the act of January 26th, 1882, as his defence.

Your petitioner claimed that the first-named act was repug-
3 nant to section 10 of article one of the Constitution of the United States, and to the Fourteenth Amendment to the Constitution of the United States, and to section 1979 of the Revised Statutes of the United States, and that the last-named act was repugnant to section ten of article one of the Constitution of the United States. The said court denied and overruled your petitioner's said claims under said Constitution and statute, and gave judgment against your petitioner, and adjudged that said acts pleaded by the said defendant constituted for him a valid and sufficient defence for his alleged trespass. Your petitioner renews here the claim made by him in said Henrico circuit court, and he claims that said first-named act of March 13th, 1884, is repugnant to section ten of article one and to the Fourteenth Amendment of the Constitution of the

United States, and to section 1979 of the Revised Statutes of the United States, and that the said last-named act is repugnant to section ten of article one of the Constitution of the United States. And your petitioner claims that said circuit court ought to have so held and should have ordered a jury to assess your petitioner
4 damages *damages*.

Your petitioner therefore prays that a writ of error to said judgment of the circuit court of Henrico county may be awarded him, and that said judgment, for the reasons assigned, may be reviewed and reversed.

R. B. CHAFFIN.
By his Attorney, WILLIAM L. ROYALL.

I, William L. Royall, counsel, practicing in the supreme court of appeals for the State of Virginia, am respectfully of opinion that the judgment complained of in the foregoing petition should be reviewed and reversed.

WM. L. ROYALL.

Record.

VIRGINIA:

Pleas at the court-house of the county of Henrico, before the circuit court of said county, on Saturday, the 11th day of October, in the year one thousand eight hundred and eighty-four.

Be it remembered that heretofore, to wit, at rules held in the clerk's office of the said court, on the 1st Monday in Septem-
5 ber, 1884, being the — day of the month, came R. B. Chaffin and filed his declaration against William Taylor, defendant, which declaration is in these words:

Circuit Court of Henrico.

R. B. CHAFFIN *vs.* WILLIAM TAYLOR.

R. B. Chaffin, plaintiff, complains of William Taylor, defendant, of a plea of trespass, for this, to wit, that heretofore, to wit, on the — day of May, 1884, the said defendant with force and arms did unlawfully and against the will of the plaintiff enter upon the premises and farm of said plaintiff, which said premises and farm are situate and being within the limits and boundaries of the county of Henrico, in the State of Virginia; and the said defendant being as aforesaid within and upon the said premises and farm, he, the said defendant, with force and arms and against the will of the plaintiff, did unlawfully seize, take, and carry away one horse, the property of the plaintiff, of great value, to wit, of the value of one hundred dollars, and other wrongs and injuries to the said plaintiff the said defendant then and there did, to the damage of the plaintiff
6 one hundred and fifty dollars, and therefore he sues.

WM. L. ROYALL, *P. Q.*

Whereupon the defendant having been duly summoned and not appearing, on motion of the plaintiff, by his attorney, it was ordered

that judgment be entered for the said plaintiff against the defendant for what damages the plaintiff ought to recover, unless the defendant should appear and plead to issue at the then next rules.

At which day, to wit, at rules held in the office of the said court on the fourth Monday in September, 1884, being the — day of the month, the defendant still failing to appear, on the motion of the plaintiff, by his attorney, it was ordered that the conditional judgment in this case entered at the last rules stand confirmed and that the plaintiff's damages be ascertained by a jury at the next term.

And at another day, to wit, at a circuit court begun and held for the county of Henrico, at the court-house, on Monday, the 6th day of October, 1884.

7 This day came the parties by their attorneys, and thereupon the defendant, by his attorney, by leave of the court, filed his special plea to the plaintiff's declaration, which plea is in these words:

In the Circuit Court of the County of Henrico.

WM. TAYLOR *ads.* R. B. CHAFFIN.

And the said defendant, by his attorney, comes and defends the force and injury complained of, and says that the said plaintiff ought not to have or maintain his aforesaid action against him, because he says that before and at the time when the supposed trespasses complained of in the plaintiff's declaration were supposed to have been committed the plaintiff owed taxes to the State of Virginia for the year 1883, which taxes had been lawfully assessed against said plaintiff on property owned by said plaintiff in the county of Henrico, in the State of Virginia. That the defendant is the treasurer of the said county of Henrico, duly elected and qualified, and that he is charged by the laws of the State of Virginia with the
8 duty of collecting all taxes due the said State on property and persons lawfully assessed with taxes in said county.

That the taxes of the plaintiff aforesaid were due and payable prior to the 1st day of December, 1883, and that by the laws of the State of Virginia it became the duty of this defendant to levy for taxes after said first day of December, 1883; that the defendant has many times since the first day of December, 1883, demanded of the plaintiff payment of his said taxes due as aforesaid to the said State of Virginia, but the said plaintiff has always neglected and refused to pay the same, and did neglect and refuse to pay the same, up to the time when the supposed trespasses were alleged to have been committed. That the plaintiff being so in default, at the time mentioned in the declaration, the defendant, as was his duty under the laws of Virginia, entered upon the premises of the plaintiff for the purpose of levying upon, and did levy upon, property of the plaintiff to satisfy said taxes due by the plaintiff to the State as aforesaid: and that he took and carried away the horse mentioned in
9 the declaration, the property of the plaintiff, for the purpose

of selling it according to law to satisfy the taxes due as aforesaid by the plaintiff.

That the defendant used no more force than was necessary to make said levy, and he did not remain upon the plaintiff's premises longer than was necessary to make said levy: and that the defendant committed no outrage or wrong whilst upon the plaintiff's premises upon the plaintiff or his property.

That the foregoing are the supposed trespasses mentioned in the plaintiff's declaration, whereof the said plaintiff hath complained against the said defendant, and this he is ready to verify.

Wherefore he prays judgment if the said plaintiff ought to have or maintain his action aforesaid against him.

WM. TAYLOR,
By G. W. THOMAS, *P. Q.*

Sworn to before me, this 4th day of October, 1884.
GEO. W. CARTER, *Clk.*

And the plaintiff, by like leave of court, filed his replication to said special plea, which is in these words:

10 *Plaintiff's Replication to Defendant's Plea.*

Circuit Court of Henrico County.

R. B. CHAFFIN *vs.* WM. TAYLOR.

And the said plaintiff, as to the plea of the defendant above pleaded, says that he ought not to be barred from having and maintaining his aforesaid action thereof against the defendant by reason of anything by the defendant in that plea alleged, because he says that on many and divers occasions prior to the — day of —, 1884, the day when the defendant unlawfully entered upon his premises and committed the wrongs and injuries complained of in the declaration, he tendered to the defendant, as treasurer and collector of taxes for the county of Henrico, in payment of his said taxes due to the State of Virginia, a coupon cut from a bond issued by the State of Virginia under authority of, and by virtue of, the act of the General Assembly of the State of Virginia, approved March 30th, 1871, entitled "An act to provide for the funding and payment of the public debt," which coupon bore upon its face the contract
11 of the State of Virginia that it should be received in payment of all taxes due to said State, and the same was overdue and past maturity. And at the same time he tendered as part of said tender to the said treasurer a sum in National Bank currency. That the said coupon and said sum of National Bank currency amounted together to exactly the sum so due by the plaintiff for taxes as aforesaid for the year 1883; that he, the said plaintiff, on the — day of —, 1884, the same being the day upon which the defendant made said unlawful entry upon the premises of the plaintiff, prior to the time when he made said entry, again tendered said coupon and National Bank currency to the defendant in payment of his said taxes, and he was always ready and willing to deliver the same to the defend-

ant in payment of his said taxes up to the moment when he made said unlawful entry, but the said defendant refused to receive said coupon and National Bank currency in payment of the said taxes, notwithstanding said tender so made by the plaintiff, and he unlawfully entered upon the plaintiff's premises thereafter and
12 committed the trespasses complained of in the declaration aforesaid, although the plaintiff was always, after said tender, ready and willing to deliver to him said coupon and currency in payment of his said taxes, and this he, the plaintiff, is ready to verify; and he prays judgment and his damages by him sustained by reason of the committing of the said trespasses to be assessed to him.

WM. L. ROYALL, *P. Q.*

To which replication the defendant filed a special demurrer, which is in these words:

Demurrer to Plaintiff's Replication.

WM. TAYLOR *ads.* R. B. CHAFFIN.

And the defendant says that the plaintiff's replication is not sufficient in law, for the following reasons: Firstly, because by an act of the General Assembly of Virginia, approved January 26th, 1882, entitled "An act to provide for the more efficient collection of the revenue to support government, maintain the public schools, and to pay interest on the public debt," this defendant, as treasurer
13 of Henrico county, was and is forbidden to receive in payment of taxes due the State of Virginia anything but gold, silver, United States Treasury notes, and National Bank currency. And secondly, because the third section of an act of the General Assembly of Virginia, approved March 13th, 1884, entitled "An act to amend an act approved January 26th, 1882, entitled 'An act to provide for the more efficient collection of the revenue, &c,'" forbids this action being brought or maintained in this case for want of sufficient replication in this matter, the said defendant prays judgment if the said plaintiff ought to have or maintain his aforesaid action against him.

G. W. THOMAS, *P. Q.*

And the plaintiff joined in said demurrer, and by leave of the court he filed a special joinder assigning the reason why said demurrer should be overruled, which is in these words:

Joinder in Defendant's Demurrer.

Circuit Court of Henrico County.

R. B. CHAFFIN *vs.* WM. TAYLOR.

And the plaintiff above named joins the defendant's de-
14 murrer and says that the same should be overruled, because he claims that the act of Assembly approved January 26th, 1882, first referred to by the defendant, is repugnant to section ten

of article one of the Constitution of the United States, and because the act approved March 13th, 1884, referred to secondly by the defendant, is likewise repugnant to section ten of article one of the Constitution of the United States, and is also repugnant to the Fourteenth Amendment of the Constitution of the United States, and is also repugnant to section 1979 of the Revised Statutes of the United States.

WM. L. ROYALL, *P. Q.*

And this cause is submitted to the court by both plaintiff and defendant upon said declaration, plea, replication, demurrer, and joinder in demurrer for its judgment thereon.

And now, at this day, to wit, at a circuit court continued by adjournment and held for the county of Henrico, on the day and year first herein written, to wit, on Saturday, the 11th day of October, 1884.

15 This day came again the parties by their attorneys, and the court having maturely considered the pleadings in this case is of opinion that the act of the General Assembly, approved December 26th, 1882, pleaded by the defendant, is not repugnant to section ten of article one of the Constitution of the United States, and that the act of the General Assemply approved March 13th, 1884, pleaded by the defendant is not repugnant to section ten of article one of the Constitution of the United States, nor to the Fourteenth Amendment to the Constitution of the United States, nor to section 1979 of the Revised Statutes of the United States.

The court doth, therefore, sustain the defendant's demurrer to the plaintiff's replication and doth deny and overrule the claims made by the plaintiff under the Constitution of the United States, and under section 1979 of the Revised Statutes of the United States.

Therefore it is considered by the court that the plaintiff take nothing by his writ, but that he be in mercy, &c., for his false clamor, and that the defendant go thereof without day and recover of the plaintiff his costs.

A true transcript of the record.
Teste: GEO. W. CARTER, *Clk.*
Fee, $3.

A true transcript of the record.
Teste: GEO. K. TAYLOR, *C. C.*

16 STATE OF VIRGINIA, *City of Richmond,* } *To wit:*

I, George K. Taylor, clerk of the supreme court of appeals of Virginia, at Richmond, do hereby certify that the foregoing is a true transcript of the record and proceedings upon a petition for a writ of error lately presented to the supreme court of appeals of Virginia, in a suit in which R. B. Chaffin was plaintiff and William Taylor was defendant.

In testimony whereof, I have hereto set my hand and annexed the seal of the said court, this 17th day of January, 1885.

[SEAL.] GEO. K. TAYLOR,

Clerk Supreme Court of Appeals of Virginia, at Richmond.

[Endorsed :] Chaffin, R. B. *vs.* Taylor. Copy. Record. Fee, $1.

17 To the Honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States, or to either one of the Associate Justices of said Court :

Your petitioner, R. B. Chaffin, would respectfully represent that he is aggrieved by a judgment entered by the supreme court of appeals of the State of Virginia on the 25th day of November, 1884, in a cause in which your petitioner was plaintiff and William Taylor was defendant. A transcript of the record of said judgment is presented herewith, from which the following case will appear :

Commencing on the first page of said record will be found a petition addressed by your petitioner to said supreme court of appeals, which contains a statement of the principal facts in the case ; and your petitioner begs leave to refer to that petition, and, in order to avoid unnecessary repetition, to make it a part of this petition.

The second act pleaded by the defendant in his demurrer to the plaintiff's replication, is in the following words :

§ 3. " No action of trespass or trespass on the case shall be
18 brought or maintained against any collecting officer for levying upon the property of any tax payer who may have tendered in payment, in whole or in part, any coupons or paper purporting to be a coupon cut from bonds of this State for such taxes, and who shall refuse to pay his taxes in gold, silver, United States Treasury notes, or National Bank notes."

This honorable court decided in the case of Antoni *v.* Greenhow, 107 U. S. R., 769, that when the State of Virginia issued the coupons in question she made and entered into a valid and binding contract to receive them in payment of all taxes due to her, and that any act which her Legislature might pass aimed at exonerating her from the obligation of this contract was repugnant to the Constitution of the United States and void. It is clear, then, that your petitioner had a right to pay his taxes with the coupons tendered by him and that the defendant committed a naked trespass in seizing his property after that tender. Your petitioner insists that the State's contract that she would receive the coupon carried with it the further contract that he should have a right to sue her officers if they refused to receive the coupons when offered and arbi-
19 trarily seized his property when he was in no default.

It cannot be said that the act, the validity of which was maintained in Antoni *v.* Greenhow, furnishes an adequate remedy by way of substitute for the action of trespass. That act provides only for the case of those who abandon their contest with the State, pay their taxes in money and then seek to have it repaid to them. But your petitioner chose, as he had a right to do, to stand upon his tender of coupons and to refuse to pay anything save the coupons.

The act referred to has no application to his case, and furnishes him no remedy whatever. If, therefore, he cannot sue the officer for his trespass in levying after a tender of coupons, he is wholly without a remedy. The officer has acted with no better authority than the highwayman has, but your petitioner must submit to his arbitrary and illegal invasion of his rights and is to be wholly destitute of means for securing the protection of the law.

Your petitioner claims that this is depriving him of his property without due process of law; it is denying him the equal protection of the laws, and it is depriving him of a right secured to him by the Constitution under color of a State statute.

Your petitioner claims, therefore, that he had a right to sue the defendant under section 1979 of the Revised Statutes of the United States. He claims that it is as much the duty of a State court to give him the benefit of the rights conferred upon him by that section as it is the duty of the United States courts. This proposition is laid down expressly by Judge Lowell in United States *v.* Mooney, 11 Fed. Rep., 476.

Your petitioner therefore prays that a writ of error may be awarded him and that said judgment may be reviewed and reversed.

Petitioner, by his counsel—

WM. L. ROYALL.

UNITED STATES OF AMERICA, *ss:*

[SEAL.] The President of the United States of America to the honorable the judges of the supreme court of appeals of the State of Virginia, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea, which is in the said supreme court of appeals before you, or some of you, being the highest court of law or equity of the said State in which a decision could be had in the said suit between R. B. Chaffin, plaintiff, and William Taylor, defendant, wherein was drawn in question the validity of a treaty or statute of or an authority exercised under the United States, and the decision was against their validity; or wherein was drawn in question the validity of a statute of, or an authority exercised under, said State, on the ground of their being repugnant to the Constitution, treaties, or laws of the United States, and the decision was in favor of such their validity; or wherein was drawn in question the construction of a clause of the Constitution, or of a treaty, or statute of, or commission held under the United States, and the decision was against the title, right, privilege, or exemption specially set up or claimed under such clause of the said Constitution, treaty, statute, or commission, a manifest error hath happened, to the great damage of the said R. B. Chaffin, as by his complaint appears: We being willing that error, if any hath been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly you send the record and proceedings aforesaid, with all things concerning the same, to the Su-

preme Court of the United States, together with this writ, so that you have the same at Washington on the second Monday of October next, in the said Supreme Court to be then and there held, that the record and proceedings aforesaid being inspected the said Supreme Court may cause further to be done therein to correct that error, what of right and according to the laws and customs of the United States should be done.

Witness the Honorable Morrison R. Waite, Chief Justice of the said Supreme Court, the third day of January, in the year of our Lord one thousand eight hundred and eighty-five.

JAMES H. McKENNEY,
Clerk of the Supreme Court of the United States.

Allowed by—
SAM. F. MILLER,
Justice Sup. Court.

23 VIRGINIA:

In the Clerk's Office of the Supreme Court of Appeals of Virginia, at Richmond, January 17th, 1885.

I, George K. Taylor, clerk of the supreme court of appeals of Virginia, at Richmond, do hereby certify that a copy of the within writ is on file in my office.

Given under my hand, this 17th January, 1885.

GEO. K. TAYLOR,
Clerk Supreme Court of Appeals of Virginia, at Richmond.

24 (Copy.)

Know all men by these presents, that we, William L. Royall and Richard W. Maury, are held and firmly bound unto William Taylor in the full and just sum of five hundred dollars, to be paid to the said William Taylor, certain attorney, executors, administrators, or assigns; to which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents.

Sealed with our seals, and dated this third day of January, in the year of our Lord one thousand eight hundred and eighty-five.

Whereas lately, at a supreme court of appeals of the State of Virginia, in a suit depending in said court between R. B. Chaffin and William Taylor, a judgment was rendered against the said R. B. Chaffin, and the said R. B. Chaffin having obtained a writ of error and filed a copy thereof in the clerk's office of the said court to reverse the judgment in the aforesaid suit, and a citation directed to the said —, citing and admonishing him to be and appear at a Supreme Court of the United States to be holden at Washington the second Monday of October next:

Now, the condition of the above obligation is such, that if the said R. B. Chaffin shall prosecute said writ of error to effect, and answer

all damages and costs if he fail to make his plea good, then the above obligation to be void, else to remain in full force and virtue.

WILLIAM L. ROYALL. [SEAL.]
RICH'D W. MURRAY. [SEAL.]

Sealed and delivered in presence of—

——— ———.

Approved by—
(S'g'd) SAM. F. MILLER,
Justice Sup. Court.

Jan'y 3, 1885.

25 VIRGINIA:

In the Clerk's Office of the Supreme Court of Appeals of Virginia, at Richmond, January 17th, 1885.

I, George K. Taylor, clerk of the supreme court of appeals of Virginia, at Richmond, hereby certify that the bond of which the within is a copy is on file in my office.

Given under my hand, this 17th day of January, 1885.

GEO. K. TAYLOR,
Clerk Supreme Court of Appeals of Virginia, at Richmond.

26 The United States of America to William Taylor, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden at Washington on the second Monday of October next, pursuant to a writ of error filed in the clerk's office of the supreme court of appeals of the State of Virginia, wherein R. B. Chaffin is plaintiff in error and you are defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error, as in the said writ of mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Samuel F. Miller, Associate Justice of the Supreme Court of the United States, this 3d day of January, in the year of our Lord one thousand eight hundred and eighty-five.

SAM. F. MILLER,
Justice Sup. Court.

27 I acknowledge service of a copy of the within citation for the defendant.

F. S. BLAIR,
Jan'y 6th, 1885. *Atto. Gen'l.*

VIRGINIA:

In the Clerk's Office of the Supreme Court of Appeals of Virginia, at Richmond, Jan'y 17th, 1885.

I, George K. Taylor, clerk of the supreme court of appeals of Vir-

ginia, at Richmond, hereby certify that a copy of the within citation is on file in my office.

Given under my hand, this 17th day of January, 1885.

GEO. K. TAYLOR,

Clerk Supreme Court of Appeals of Virginia, at Richmond.

Endorsed on cover: Virginia supreme court of appeals. No. 1260. R. B. Chaffin, plaintiff in error, *vs.* William Taylor. Filed January 22, 1885.